

ASSEMBLY BILL

No. 1566

Introduced by Assembly Member Holden

January 29, 2014

An act to amend Sections 2460, 2462, 2464, 2466, 2468, 2470, 2472, 2476, and 23109.2 of, and to add Sections 2480 and 2482 to, the Vehicle Code, relating to inedible kitchen grease.

LEGISLATIVE COUNSEL'S DIGEST

AB 1566, as introduced, Holden. Inedible kitchen grease.

Existing law generally regulates persons engaged in certain businesses dealing with dead animals and pet food processing, including, among others, renderers, collection center operators, pet food processors, dead animal haulers, and transporters of inedible kitchen grease, as defined. These regulatory provisions are enforced by the Department of Food and Agriculture.

Existing law requires every licensed renderer to record and keep for 2 years records containing specified information, including the name, address, and registration number of every transporter of inedible kitchen grease who has delivered to the renderer, the total amount of inedible kitchen grease purchased in each transaction, and the date of each transaction. Existing law provides that any licensed renderer who fails to keep specified records, and any licensed renderer or registered transporter who refuses, upon demand of any peace officer, to exhibit any required records, is guilty of a misdemeanor punishable by: (1) for a first offense, a fine of \$500, imprisonment in a county jail, or both the fine and imprisonment; (2) for a 2nd offense within a period of one year, by a fine of not less than \$1,000, imprisonment in a county jail, or both the fine and imprisonment; (3) for a 3rd or any subsequent

offense within a period of 2 years, by a fine of not less than \$2,000, imprisonment in a county jail, or both the fine and imprisonment.

This bill would increase the amount of these fines to \$1,000, \$5,000, and \$10,000, respectively. The bill would apply these provisions to licensed collection centers, as defined. The bill would allow for the inspection of any required records by a motor carrier specialist with the Department of the California Highway Patrol or authorized employee of the Department of Food and Agriculture. By expanding the scope of crimes, this bill would impose a state-mandated local program.

Existing law prohibits any person from engaging in the transportation of inedible kitchen grease without being registered with the Department of Food and Agriculture and without being in possession of a valid registration certificate issued by the department. Violation of these provisions is punishable by a fine, imprisonment in a county jail, or both the fine and imprisonment, as specified.

This bill would additionally require possession of a manifest, as defined, for the inedible kitchen grease being transported. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The bill would authorize a peace officer to remove a vehicle, within the territorial limits in which the officer may act, if the vehicle is involved in the theft or movement of stolen inedible kitchen grease, or if the vehicle is transporting inedible kitchen grease without being properly licensed, as specified. The bill would authorize a peace officer, if a vehicle is involved in the theft or movement of stolen inedible kitchen grease, to seize and impound the vehicle, after citing or arresting the responsible person, for up to 30 days, as specified.

This bill would require each vehicle transporting inedible kitchen grease to display both a specified decal and certain information on the front doors of the vehicle, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2460 of the Vehicle Code is amended to read:

2460. (a) The definitions set forth in Article 1 (commencing with Section 19200) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code apply for purposes of *interpreting* this article. *The definitions set forth elsewhere in this section also apply for purposes of interpreting this article.*

(b) A “licensed renderer” is a renderer licensed under Article 6 (commencing with Section 19300) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code.

(c) A “registered transporter” is a transporter of inedible kitchen grease registered under Article 6.5 (commencing with Section 19310) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code.

(d) A “peace officer” is any peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(e) A “container” is a receptacle, including, but not limited to, a box, barrel, tank, or jar, for holding meat or meat products, poultry meat or poultry meat products, animal carcasses or parts, inedible kitchen grease, packinghouse waste, or other such items.

(f) A “manifest” is a written or electronic record that contains information required by Section 1180.24 of Article 42 of Subchapter 2 of Chapter 4 of Division 2 of Title 3 of the California Code of Regulations.

(g) “Transportation” means the movement of inedible kitchen grease and the loading, unloading, or storage incidental to that movement.

(h) “Inedible kitchen grease” means any fat or used cooking grease or oils from any source.

SEC. 2. Section 2462 of the Vehicle Code is amended to read:

2462. (a) In addition to any other records required to be ~~kept~~ *maintained and retained* pursuant to Chapter 5 (commencing with Section 19200) of Part 3 of Division 9 of the Food and Agricultural Code, ~~every~~ *each* licensed renderer and collection center shall ~~record and keep~~ *record and maintain* for two years, in connection with the receipt of kitchen grease that is not intended for human food, all of the ~~following~~ *information required by Section 1180.24*

1 of Article 42 of Subchapter 2 of Chapter 4 of Division 2 of Title 3
2 of the California Code of Regulations, including, but not limited
3 to, the following:

4 (1) ~~The name, address, and registration number~~ *name* of every
5 *each registered* transporter of inedible kitchen grease who has
6 delivered that material to the *licensed renderer or collection center*.

7 (2) The total amount of inedible kitchen grease purchased in
8 each transaction.

9 (3) The date of *delivery* for each transaction.

10 (b) ~~Every~~ *Each* registered transporter of inedible kitchen grease
11 shall record and maintain for two years *a manifest that includes,*
12 *but is not limited to,* all of the following:

13 (1) The name and address of each location from which the
14 *registered* transporter obtained the inedible kitchen grease.

15 (2) The quantity of ~~material~~ *inedible kitchen grease* received
16 from each location.

17 (3) The date on which the inedible kitchen grease was obtained
18 from each location.

19 SEC. 3. Section 2464 of the Vehicle Code is amended to read:

20 2464. All records required to be retained pursuant to this article
21 shall be maintained *and retained* at the regular place of business
22 of ~~every~~ *each* licensed renderer, *collection center*, and ~~every~~
23 registered transporter. Those records shall be exhibited on demand
24 to any peace officer, *motor carrier specialist with the Department*
25 *of the California Highway Patrol, or authorized employee of the*
26 *Department of Food and Agriculture.*

27 SEC. 4. Section 2466 of the Vehicle Code is amended to read:

28 2466. ~~Any~~ A peace officer, *motor carrier specialist with the*
29 *Department of the California Highway Patrol, or authorized*
30 *employee of the Department of Food and Agriculture investigator*
31 may, during normal business hours, inspect any premises
32 maintained by a licensed renderer, *collection center*, or registered
33 transporter, and any inedible kitchen grease located on the
34 premises, for the purpose of determining whether that renderer,
35 *collection center*, or transporter is complying with the record
36 maintenance requirements of this article.

37 SEC. 5. Section 2468 of the Vehicle Code is amended to read:

38 2468. (a) ~~Any~~ A licensed ~~renderer~~ *renderer, collection center,*
39 *or registered transporter* who fails in any respect to keep the
40 ~~written~~ records required by this article, or to set out in that ~~written~~

record any matter required by this article to be set out in the record, is guilty of a misdemeanor.

(b) ~~Every~~ *Each* licensed ~~renderer~~ *renderer or collection center*, or registered transporter, who refuses, upon demand of any peace officer, *motor carrier specialist with the Department of the California Highway Patrol, or authorized employee of the Department of Food and Agriculture*, to exhibit any ~~written~~ record required by this article, or who destroys that record within two years after making the final entry of any information required by this article, is guilty of a misdemeanor.

(c) ~~Any~~ A violation of subdivision (a) or (b) is punishable as follows:

(1) For a first offense, by a fine of not less than ~~five hundred dollars (\$500)~~ *one thousand dollars (\$1,000)*, or by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment.

(2) For a second offense within a period of one year, by a fine of not less than ~~one thousand dollars (\$1,000)~~ *five thousand dollars (\$5,000)*, or by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment. In addition to any other punishment imposed pursuant to this paragraph, the court may ~~order~~ *enjoin* the defendant ~~to stop~~ *from* engaging in the business as a ~~transporter~~ *transporter, collection center, or renderer* for a period not to exceed 30 days.

(3) For a third or any subsequent offense within a period of two years, by a fine of not less than ~~two thousand dollars (\$2,000)~~ *ten thousand dollars (\$10,000)*, or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall ~~order~~ *enjoin* the defendant ~~to stop~~ *from* engaging in the business as a ~~transporter~~ *transporter, collection center, or renderer* for a period of 30 days.

SEC. 6. Section 2470 of the Vehicle Code is amended to read:

2470. It is unlawful for ~~any~~ *a* person to engage in the transportation of inedible kitchen grease without being registered with the Department of Food and Agriculture and without being in possession of a valid registration certificate issued by that department, *or a copy of the certificate, and a manifest for the inedible kitchen grease being transported.*

SEC. 7. Section 2472 of the Vehicle Code is amended to read:

1 2472. (a) It is unlawful for any person who is not a *licensed*
2 *renderer or collection center or registered transporter or licensed*
3 ~~renderer transporter~~ of inedible kitchen grease to transport that
4 product from any place within this state to any place outside the
5 borders of this state.

6 (b) *It is unlawful for any person who is not a licensed renderer*
7 *or collection center or registered transporter of inedible kitchen*
8 *grease to transport that product from any place outside this state*
9 *to any place inside the borders of this state.*

10 SEC. 8. Section 2476 of the Vehicle Code is amended to read:

11 2476. ~~No~~ A licensed *renderer or collection center*, registered
12 transporter, or any other person ~~may~~ *shall not* take possession of
13 inedible kitchen grease from an unregistered ~~transporter~~
14 *transporter, unlicensed renderer or collection center, or any other*
15 *person*, or knowingly take possession of stolen inedible kitchen
16 grease.

17 SEC. 9. Section 2480 is added to the Vehicle Code, to read:

18 2480. A peace officer may remove a vehicle, within the
19 territorial limits in which the officer may act, pursuant to either of
20 the following:

21 (a) If the vehicle is involved in the theft or movement of stolen
22 inedible kitchen grease. If a peace officer removes a vehicle
23 pursuant to this subdivision, the officer may, after citing or
24 arresting the responsible person, seize the vehicle, which may be
25 impounded for up to 30 days, pursuant to Section 23109.2.

26 (b) If the vehicle is transporting inedible kitchen grease without
27 being properly licensed by the Department of Food and Agriculture.

28 SEC. 10. Section 2482 is added to the Vehicle Code, to read:

29 2482. (a) To assist law enforcement personnel in enforcing
30 this article, each vehicle transporting inedible kitchen grease shall
31 have a current registration decal issued by the Department of Food
32 and Agriculture permanently affixed and prominently displayed
33 on the upper right corner of the vehicle windshield or in a
34 conspicuous location on the right side of the trailer being towed.

35 (b) Each vehicle used in the transportation of inedible kitchen
36 grease shall conspicuously display the following information on
37 both front doors of the vehicle in letters not less than two inches
38 high:

39 (1) The name of the business or person registered as a transporter
40 with the Department of Food and Agriculture.

1 (2) The address of the company or owner, or the carrier
2 identification number issued by the California Highway Patrol.

3 (c) Removable signs shall also display the information specified
4 in subdivision (b).

5 SEC. 11. Section 23109.2 of the Vehicle Code is amended to
6 read:

7 23109.2. (a) (1) Whenever a peace officer determines that a
8 person was engaged in any of the activities set forth in paragraph
9 (2), the peace officer may immediately arrest and take into custody
10 that person and may cause the removal and seizure of the motor
11 vehicle used in that offense in accordance with Chapter 10
12 (commencing with Section 22650). A motor vehicle so seized may
13 be impounded for not more than 30 days.

14 (2) (A) A motor vehicle speed contest, as described in
15 subdivision (a) of Section 23109.

16 (B) Reckless driving on a highway, as described in subdivision
17 (a) of Section 23103.

18 (C) Reckless driving in an offstreet parking facility, as described
19 in subdivision (b) of Section 23103.

20 (D) Exhibition of speed on a highway, as described in
21 subdivision (c) of Section 23109.

22 (E) *Theft or movement of stolen inedible kitchen grease, as*
23 *described in subdivision (a) of Section 2480.*

24 (b) The registered and legal owner of a vehicle removed and
25 seized under subdivision (a) or their agents shall be provided the
26 opportunity for a storage hearing to determine the validity of the
27 storage in accordance with Section 22852.

28 (c) (1) Notwithstanding Chapter 10 (commencing with Section
29 22650) or any other provision of law, an impounding agency shall
30 release a motor vehicle to the registered owner or his or her agent
31 prior to the conclusion of the impoundment period described in
32 subdivision (a) under any of the following circumstances:

33 (A) If the vehicle is a stolen vehicle.

34 (B) If the person alleged to have been engaged in the motor
35 vehicle speed contest, as described in subdivision (a), was not
36 authorized by the registered owner of the motor vehicle to operate
37 the motor vehicle at the time of the commission of the offense.

38 (C) If the registered owner of the vehicle was neither the driver
39 nor a passenger of the vehicle at the time of the alleged violation
40 pursuant to subdivision (a), or was unaware that the driver was

1 using the vehicle to engage in any of the activities described in
2 subdivision (a).

3 (D) If the legal owner or registered owner of the vehicle is a
4 rental car agency.

5 (E) If, prior to the conclusion of the impoundment period, a
6 citation or notice is dismissed under Section 40500, criminal
7 charges are not filed by the district attorney because of a lack of
8 evidence, or the charges are otherwise dismissed by the court.

9 (2) A vehicle shall be released pursuant to this subdivision only
10 if the registered owner or his or her agent presents a currently valid
11 driver's license to operate the vehicle and proof of current vehicle
12 registration, or if ordered by a court.

13 (3) If, pursuant to subparagraph (E) of paragraph (1) a motor
14 vehicle is released prior to the conclusion of the impoundment
15 period, neither the person charged with a violation of subdivision
16 (a) of Section 23109 nor the registered owner of the motor vehicle
17 is responsible for towing and storage charges nor shall the motor
18 vehicle be sold to satisfy those charges.

19 (d) A vehicle seized and removed under subdivision (a) shall
20 be released to the legal owner of the vehicle, or the legal owner's
21 agent, on or before the 30th day of impoundment if all of the
22 following conditions are met:

23 (1) The legal owner is a motor vehicle dealer, bank, credit union,
24 acceptance corporation, or other licensed financial institution
25 legally operating in this state, or is another person, not the
26 registered owner, holding a security interest in the vehicle.

27 (2) The legal owner or the legal owner's agent pays all towing
28 and storage fees related to the impoundment of the vehicle. No
29 lien sale processing fees shall be charged to a legal owner who
30 redeems the vehicle on or before the 15th day of impoundment.

31 (3) The legal owner or the legal owner's agent presents
32 foreclosure documents or an affidavit of repossession for the
33 vehicle.

34 (e) (1) The registered owner or his or her agent is responsible
35 for all towing and storage charges related to the impoundment,
36 and any administrative charges authorized under Section 22850.5.

37 (2) Notwithstanding paragraph (1), if the person convicted of
38 engaging in the activities set forth in paragraph (2) of subdivision
39 (a) was not authorized by the registered owner of the motor vehicle
40 to operate the motor vehicle at the time of the commission of the

1 offense, the court shall order the convicted person to reimburse
2 the registered owner for any towing and storage charges related
3 to the impoundment, and any administrative charges authorized
4 under Section 22850.5 incurred by the registered owner to obtain
5 possession of the vehicle, unless the court finds that the person
6 convicted does not have the ability to pay all or part of those
7 charges.

8 (3) If the vehicle is a rental vehicle, the rental car agency may
9 require the person to whom the vehicle was rented to pay all towing
10 and storage charges related to the impoundment and any
11 administrative charges authorized under Section 22850.5 incurred
12 by the rental car agency in connection with obtaining possession
13 of the vehicle.

14 (4) The owner is not liable for any towing and storage charges
15 related to the impoundment if acquittal or dismissal occurs.

16 (5) The vehicle may not be sold prior to the defendant's
17 conviction.

18 (6) The impounding agency is responsible for the actual costs
19 incurred by the towing agency as a result of the impoundment
20 should the registered owner be absolved of liability for those
21 charges pursuant to paragraph (3) of subdivision (c).
22 Notwithstanding this provision, nothing shall prohibit impounding
23 agencies from making prior payment arrangements to satisfy this
24 requirement.

25 (f) Any period when a vehicle is subjected to storage under this
26 section shall be included as part of the period of impoundment
27 ordered by the court under subdivision (h) of Section 23109.

28 SEC. 12. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.